



SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of: :
Huffman et al. :
Application No. 07/580,246 : ON PETITION
Filed: September 10, 1990 :

This application is before this office in view of a petition filed August 2, 2005, self-styled as requesting relief under 37 CFR 1.181, 1.182, and 1.183, which is being treated by this Office as a petition under 37 CFR 1.181 only, to refer the above-identified application to the attention of the Office of the Director, Technology Center 1700, for a review of the examiner's actions in this case.

The petition is granted under 37 CFR 1.181 **solely** to the preliminary, procedural extent that the petition is being referred to the Group Director of Technology Center 1700, for a decision on the merits of the petition under 37 CFR 1.181.

Petitioner complains that he has been prejudiced by the examiner's inclusion of an alleged, but unlabeled, new grounds of rejection in the Examiner's Answer mailed June 3, 2005

A review of an examiner's action or inaction in a given application, in the first instance, is by way of the Group Director under the provisions of 37 CFR 1.181. See MPEP 1002.02(c), ¶ 3. Should an applicant, in turn, seek review of an adverse decision of the Director, that review will come before this office under the provisions of 37 CFR 1.181. See MPEP 1002.02(b), ¶ 15.

Since 37 CFR 1.181 entirely provides for the question then 37 CFR 1.182 by its express terms does not provide for the question, and as such, it is facially unnecessary to consider the petition under 37 CFR 1.182.

As to the petition under 37 CFR 1.183, since it is facially not necessary to consider waiver of any requirement of the rules of practice for the Group Director to treat the petition on its merits under 37 CFR 1.181, the question of waiver need not be considered.

This application is being referred to the office of the Group Director for Technology Center 1700, for treatment of the petition filed August 5, 2005 considered only under the provisions of 37 CFR 1.181(a).

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

A handwritten signature in black ink, appearing to read 'Brian Hearn', with a stylized flourish at the end.

Brian Hearn
Petitions Examiner
Office of Petitions